

## REMARKS

The December 19, 2006 Final Office Action in the above-identified case rejected all pending claims under 35 U.S.C. § 112. In light of the amendments above and the arguments below, Applicants respectfully request reconsideration.

On February 27, 2007, Applicants' attorney, Jean C. Baker, telephonically interviewed Examiner Patricia A. Duffy. Applicants and their attorney thank Examiner Duffy for the courtesy of her time and for her helpful suggestions. Attorney Baker and Examiner Duffy discussed proposed amendments to claim 1 and discussed support for comparison of the present invention to bacterial cells lacking endogenous YggX gene. Applicants have incorporated this discussion into the comments below and their amendments.

### § 112 Rejections, first paragraph

Applicants note that they have cancelled all claims except for pending claim 1.

Claim 1 is rejected as failing to comply with the written description standard. The Office Action notes that claim 1 still recites "gene". Applicants have amended claim 1 to remove the word "gene".

On page 4 of the Office Action, claim 1 is rejected again as failing to comply with written description. The Office Action has asked Applicants to point to the specification where support for a comparison is found. Applicants note that in specifying the protective effects of the YggX protein to superoxide damage, Applicants compared a strain (or strains) producing YggX to those not producing YggX. This means that the strains with the YggX protein accumulation as measured by Western analysis are compared to those lacking YggX protein by the same criteria. These standards are shown, in one example, in Figure 2 where neither DM5104 or DM5647 had detectable YggX.

Applicants have now amended claim 1 to specify that the comparison is with a cell that does not produce the YggX protein.

On page 5 of the Office Action, claim 1 is rejected as indefinite because of the recitation of the word "gene". That word has been removed.

Claim 1 has also been rejected because of antecedent basis problems with recitation of "the cells". Applicants note that claim one has been rearranged in that "the cells" appears only once.

At page 6, claim 1 is rejected as failing to comply with written description. The claims now recite "examining the oxygen-labile enzyme." The Examiner notes that the specification provides written description of oxygen-labile proteins wherein the proteins have an Fe-S cluster/center. Applicants have added this language to the claim.

Applicants believe now that all rejections are rendered moot and that claim 1 is allowable.

Applicants have added new claim 27 which is a rewritten version of claim 21 with the limitations of claim 1.

Fees

No fee is believed due in connection with this submission. However, if a fee is due in this or any subsequent response, please charge the fee to Deposit Account No. 17-0055. Likewise, no extension of time is believed to be necessary. However, should any extension be required in this or any subsequent response, please consider this to be a petition for the appropriate extension of time and a request to charge the petition fee due to the same Deposit Account.

Respectfully submitted,

Date: 3/19/07

By: Jean C. Baker  
Jean C. Baker, Reg. No. 35,433  
QUARLES & BRADY  
411 East Wisconsin Avenue  
Milwaukee, WI 53202  
(414) 277-5709